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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/513,962

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Scott A McDermott

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9064

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7590

05/27/2005

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EXAMINER

FAN, CHIEH M

ART UNIT

PAPER NUMBER

2634

DATE MAILED: 05/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/513,962

Applicant(s)

MCDERMOTT ET AL.

Examiner

Chieh M. Fan

Art Unit

2634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-12 and 14-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-10 and 14-20 is/are allowed.
- 6) ☒ Claim(s) 11 and 12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 February 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 5/5/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 11 and 12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The claimed limitation, "does not include a substantial sequence of bits that are common among each of the other message", does not have support from the specification. In fact, the term "a substantial sequence of bits" has never even appeared in the specification.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 11 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As indicated above, the term "a substantial sequence of bits" has never appeared in the specification, it is therefore not clear how to interpret such term. Further, the claimed limitation "each message has an associated code-phase, and does not include a substantial sequence of bits that are common among each of the other message" is indefinite and controversial. For example, if there are three transmitters that transmit messages A, B and C, respectively. If the claimed "each message" is referred to message A, then the substantial sequence of bits would not be included in message A but would be common for the messages B and C. On the other hand, if the claimed "each message" is referred to message B, then the substantial sequence of bits would not be included in message B but would be common for the messages A and C. The second situation clearly conflicts with the first situation since messages A and C do not have common substantial sequence of bits in the first situation. Therefore, the claimed limitation is indefinite.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claim 11 is rejected under 35 U.S.C. 102(e) as being anticipated by Abramson (U.S. Patent No. 6,151,313).

Abramson discloses a communications system comprising:

a plurality of transmitters that are configured to communicate messages to a receiver, each transmitter of the plurality of transmitters being configured to operate substantially autonomously, and independent of the receiver, and each transmitter being configured to communicate its message to the receiver using substantially identical transmission parameters as each other transmitter, including using a common spreading-code within a common communications channel (lines 1-3 of claim 1 or lines 1-6 of claim 6), and

wherein each message has an associated code-phase that is independent of the receiver, and independent of each other message (col. 3, lines 11-12; that is, the transmitters are independent), and does not include a substantial sequence of bits that are common among each of the other messages (the term "a substantial sequence of bits" has never been mentioned in Abramson).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Abramson (U.S. Patent No. 6,151,313) in view of Secord et al. (U.S. Patent No. 6,373,831, "Secord" hereinafter).

Abramson teaches the claimed invention (see the rationale applied to claim 11 above), but does not specifically teach that the each message contains an error correction code.

However, the use of an error correction code is well known in the art to improve the quality and reliability of communication. Secord teaches a spread spectrum system comprises an error correction encoder (10 in Fig. 1) to encode the message before spreading and transmitting the message. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the error correction encoder of Secord in place of the encoder of Abramson, so as to improve the quality and reliability of communication.

Response to Arguments

9. Applicant's arguments filed 12/13/04 have been fully considered but they are not persuasive.

The applicants argue that the Abramson reference does not teach a communication system wherein each of the message does not include a substantial sequence of bits that are common among each of the other message because Abramson teaches a communication system wherein each message includes a synchronization sequence of bits that are common among each of the other messages.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., Abramson teaches a communication system wherein each message includes a synchronization sequence of bits that are common among each of the other messages) are not recited in the rejected claim(s). The claim never recites a synchronization sequence. Further, the description in Abramson cited by the applicants at most teaches that each message contains a synchronization sequence. The cited description never teaches that the synchronization sequence is common among all the messages.

Allowable Subject Matter

10. Claims 2-10 and 14-20 are allowed.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chieh M. Fan whose telephone number is (571) 272-3042. The examiner can normally be reached on Monday-Friday 8:00AM-5:30PM, Alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Chin can be reached on (571) 272-3056. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Chieh M Fan
Primary Examiner
Art Unit 2634

May 18, 2005